

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

LEE RANDLE SUMMERS,	)	
	)	
Petitioner,	)	
	)	CIVIL ACTION NO.
v.	)	2:16cv396-MHT
	)	(WO)
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

OPINION AND ORDER

Petitioner has filed a motion for voluntary dismissal of this 28 U.S.C. § 2255 action under Rule 41(a)(2) of the Federal Rules of Civil Procedure.

Dismissal without prejudice under Rule 41(a)(2) at the request of petitioner is committed to the sound discretion of the district court, although in most cases a dismissal should be granted absent clear legal prejudice to the opposing parties. *See McCants v. Ford Motor Company, Inc.*, 781 F.2d 855, 856-57 (11th Cir. 1986). Simple litigation costs, inconvenience to defendants, and the prospect of a second or subsequent

lawsuit do not constitute clear legal prejudice. See *id.* at 857.

The court has reviewed the file in this case and determined that respondent has not demonstrated the existence of clear legal prejudice. The court, therefore, concludes this action should be dismissed without prejudice.

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Accordingly, it is ORDERED that:

(1) Petitioner's motion for voluntary dismissal without prejudice (doc. no. 25) is granted.

(2) This action is dismissed without prejudice under Federal Rule of Civil Procedure 41(a)(2).

This case is closed.

DONE, this the 26th day of July, 2018.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE